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OFFICE OF PETITIONS

In re Application of :
Rotman, et al. :
Application No. 10/709,329 : DECISION GRANTING
Filed: April 28, 2004 : PETITION
Attorney Docket No. 20107/1200838- :
US1 :

This is a decision on the "PETITION FOR FILING DATE", filed December 23, 2004, the "SUPPLEMENT TO PETITION FOR FILING DATE", filed February 1, 2005, and the "SECOND SUPPLEMENT TO PETITION FOR FILING DATE". The petitions are treated as a petition under 37 CFR 1.53(b), requesting that the application be accorded a filing date of April 28, 2004, with drawing figures 1 - 8 as part of the original disclosure.

The application was filed electronically on April 28, 2004. On July 15, 2004, applicants filed drawings after noticing that drawings were not in the Image File Wrapper (IFW) file. On December 13, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts" with respect to additional claims fees that were due, and noting that the application had been accorded a filing date of July 15, 2004, the date applicants submitted substitute drawings.

In response, on December 23, 2004, applicants filed the present petition. The petition is further accompanied by a copy of eight sheets of drawings containing figures 1-8. Petitioner asserts that the application as originally filed did include the eight sheets of drawings. In support thereof, petitioner has included a copy of the USPTO electronic acknowledgment receipt. The receipt indicates that the "Submission was successfully submitted - Even if Informational or Warning Messages appear below, please do not resubmit this application". In addition, the receipt indicated that the submission did not include a declaration.

Petitioner argues that at the time of filing the application, there was no reason to believe that any portion of the application had been missing, especially the drawings. Furthermore, petitioner argues that the application was filed using the IPDAS software package developed by approved USPTO software vendor, AutoDocs, LLC. Lastly, petitioner has included acknowledgment receipts from other applications in which drawings were received. However, these acknowledgment receipts fail to indicate the submission of drawings.

Petitioner's statements concerning the sequence of events and arguments pertaining thereto have been considered and are found to be persuasive. The Office recognizes that petitioner filed the instant application using software approved by the USPTO.

In view thereof, and given the facts and circumstances in this case, the petition is **GRANTED**.

Given the basis for granting this petition, the \$130 petition fee has been refunded to Deposit Account No. 04-0100.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of April 28, 2004**, using the application papers filed on that date and the eight drawing figures submitted on petition, and for an indication in Office records that eight (8) sheets of drawings were present on filing.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

A handwritten signature in black ink, appearing to read "Charles Pearson", with a long horizontal flourish extending to the right.

Charles Pearson
Director
Office of Petitions